

GASG010007292023



**IN THE COURT OF THE SESSIONS JUDGE,
SOUTH GOA, MARGAO.**

(Before: Ms. Sharmila Patil, Sessions Judge, South Goa,
Margao.)

Sessions Case No. 5/2023

State
Colva Police Station. ... Complainant

v/s

Simanchal Parida and Ors. ... Accused.

ORDER BELOW EXHIBIT 70

(Delivered on this the 20th day of the month of July of the
year 2026)

1. This is an application for bail application under Section 483 of BNSS filed by accused no.4.

Case of accused no.4 :-

2. That the accused no.4 has been falsely implicated in the crime bearing no. 21/2023 and that he is innocent and has never committed the above act and thus has been falsely implicated in the said offence. That the charge sheet in the present crime has been already been filed and thus the further continuation of accused no.4 in custody is no longer required. That there is no incriminating evidence against accused no.4 and that there is nothing on record to show that he is involved or in any way connected to the crime. That the prosecution has failed to show any direct or indirect evidence available against the accused no.4.

3. That the case is purely based on assumption and presumption and that no prima facie case is made out against the accused no.4. That any further continuation of accused no.4 in custody amounts to pretrial incarceration

and the same is solely to the detriment and harassment of accused no.4. That the entire case laid down is vague and devoid of any merits and the material and statements do not make any links or nexus to the alleged offence. That the accused has undertaken to abide by all terms and conditions which this Court may impose upon him when enlarged on bail and further undertakes not to tamper with the evidence and witnesses in the present matter. Hence prayed that bail application be allowed.

Reply of P.P. :-

4. That the accused no.4 has played active role in commission of crime alongwith another accused. That the accused is on goan as such there is every possibility that he may jump bail if released. This accused alongwith the accused were apprehended by Rajasthan police while they were moving away with the car of the deceased. Later on during the search, the valuables such as laptop watch etc of deceased were found in the car. Hence it is prayed that the application be dismissed.

5. Heard arguments.

SUBMISSIONS

Arguments of Ld. Advocate for accused no.4:-

6. That accused no.4 is entitled for bail on the ground of long incarceration. The CCTV footage shows that accused no.4 is only entering the building but not the flat in which, the deceased was found and in the CCTV footage no features can be made out of accused no.4 to identify him. The DVR of the CCTV footage is not attached however the data is extracted by an expert and a certificate under section 65 B is furnished. There is no evidence of accused no.4 being seen with accused no.1. There was an earlier bail application filed by accused no.4 which came to be dismissed by this Hon'ble Court however there is change in circumstances i.e. the parity with accused no.2 who has been released on bail by this Hon'ble Court. The earlier bail application was dismissed on 04.05.2026 and prayed that the bail be allowed.

7. She has placed reliance on **Rupesh Krushnrao Marne v/s State of Maharashtra [2026 SCC**

OnLine Bom 4484], Union of India v/s K.A. Najeeb [2021 (3) SCC 713], Parvesh Bansraj Singh v/s State of Maharashtra [2025 DGLS (Bom) 2371], Sayyad Faisal Sayyad Khaleel v/s State of Maharashtra [2025 DGLS (Bom) 2211], Sumeet Saluja v/s State of Uttar Pradesh [2015 (17) SCC 210], Akshay Bhave and others v/s State of Goa [2023 (3) Bom C.R. (Cri) 321], Pradip Alias Dipak Sunil Haribhakt v/s State of Maharashtra and another [2026 SCC OnLine Bom 1913] and Pratikesh Prakash Surve v/s State of Maharashtra [2026 SCC OnLine Bom 4565].

Arguments of Ld. PP. :-

8. That the application for bail was filed by accused no.4 on an earlier occasion on the same ground of long incarceration and parity. That accused no.3 was released on bail by the Hon'ble Bombay High Court. There are no change in circumstances for the accused no.4 now to again plead the same grounds on which, the earlier bail application was

dismissed after considering the role played by accused no.4 and therefore prayed that the bail be dismissed.

9. I have gone through the records and proceedings and have duly considered the arguments advanced on record. After going through the material before me, the point that arises for my determination alongwith its findings is given as under:-

Point for determination	Findings
Whether accused no. 4 is entitled for bail on the ground of long incarceration and parity with accused no. 3?	No.

10. I now proceed to reason out my findings.

REASONS

11. My Ld. Predecessor while dismissing the bail application of accused no.4 vide Order dated 01.12.2023 at exhibit 18 held that *“the conduct of the accused no.4 is also required to be noticed and considered. The accused no.4 is the applicant herein was arrested in Rajasthan when he*

along with others were apprehended at Nakabandhi in Rajasthan and detained in custody. The accused persons were found with the car of the deceased. The apprehension of the accused no.4 alongwith other persons with the car of the deceased also links accused no.4 to the present crime and dismissed the bail.”

12. By Order dated 04.05.2026, the second bail application of accused no. 4 was dismissed on which the same grounds of long incarceration and the ground of parity alongwith accused no.3 was pleaded by accused no.4 and after considering the various precedents on long incarceration, parity and the role of the accused no. 4, my ld. Predecessor has dismissed both the grounds.

13. I concur with the arguments of ld. P.P. for the State that both the grounds were also earlier taken in the bail application which came to be dismissed and since there is no change in circumstances, accused no.4 is not entitled for bail.

14. The precedents cited by the Ld. LADC for the accused no. 4 are on parity and long incarceration, however, since these two grounds were already considered in the earlier bail application and were dismissed, the same cannot be re-agitated again without there being any change in circumstances.

15. ***In Itishree Pati & Anr vs State Of Odisha [BLAPL No. 1433 of 2022 decided on 13th September, 2022]***, the Hon'ble Orissa High Court explicitly clarified the rules surrounding successive bail applications and what truly qualifies as a legal "change in circumstances". It held that *"it is the settled position of law that successive bail applications are permissible under the changed circumstances. The change of circumstances must be substantial one which has a direct impact on the earlier decision and not merely cosmetic changes which are of little or no consequence. Without the change in the circumstances, the subsequent bail application would be deemed to be seeking review of the earlier rejection order which is not permissible under criminal law. While entertaining such sub-*

sequent bail applications, the Court has a duty to consider the reasons and grounds on which the earlier bail application was rejected and what are the fresh grounds which warrants the evaluation and consideration of the bail application afresh and to take a view different from the one taken in the earlier application. There must be change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete. This is the limited area in which the application for bail of an accused that has been rejected earlier can be reconsidered. If a bail application is rejected considering some grounds urged by the counsel for the accused and on the same materials and without any change in the circumstances, the successive bail application is moved taking some other grounds and the Court is asked to reconsider the prayer of bail, it would be an endless exercise for the Court and entertaining such application would be a sheer wastage of valuable time of the Court”.

16. In view of the above discussion, since there are no change in circumstances from the dismissal of the earlier

bail applications both these grounds are not available for accused no.4 to reopen and argue a bail application on the same grounds. Having said so, I conclude this point as No.

17. Viewed thus, the bail application stands dismissed.

Pronounced in the open Court.

(Sharmila A. Patil)

Sessions Judge,
South Goa, Margao.

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